



General Assembly

January Session, 2003

Amendment

LCO No. 5462

SB0090805462SR0

Offered by:

SEN. MCKINNEY, 28th Dist.

To: Subst. Senate Bill No. 908

File No. 87

Cal. No. 100

"AN ACT CONCERNING SECONDHAND SMOKE IN WORK PLACES."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 12-286a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2003*):

5 (a) Each distributor and each dealer, as defined in section 12-285,
6 shall place and maintain in legible condition at each point of sale of
7 cigarettes to consumers, including the front of each vending machine,
8 and each restricted cigarette vending machine a notice which states (1)
9 that the sale, giving or delivering of tobacco products, including
10 cigarettes, to any person under [eighteen] twenty-one years of age is
11 prohibited by section 53-344, (2) the purchase or misrepresentation of
12 age by a person under [eighteen] twenty-one years of age to purchase
13 cigarettes or tobacco products is prohibited by said section 53-344, and
14 (3) the penalties and fines for violating said section 53-344 and section

15 12-295a.

16 (b) Any person who violates subsection (a) of this section shall be
17 fined not more than one hundred dollars.

18 Sec. 502. Section 12-295a of the general statutes is repealed and the
19 following is substituted in lieu thereof (*Effective October 1, 2003*):

20 (a) If the Commissioner of Revenue Services finds, after a hearing,
21 that a [minor] person under twenty-one years of age has purchased
22 cigarettes or tobacco products, said commissioner shall assess such
23 [minor] purchaser a civil penalty of not more than fifty dollars for the
24 first violation and not more than one hundred dollars for any second
25 or subsequent offense.

26 (b) If said commissioner finds, after a hearing, that any person
27 employed by a dealer or distributor, as defined in section 12-285, has
28 sold, given or delivered cigarettes or tobacco products to a [minor]
29 person under twenty-one years of age other than [a minor] such
30 person who is delivering or accepting delivery in [his] such person's
31 capacity as an employee, said commissioner shall assess [such person]
32 the person making such sale, gift or delivery a civil penalty of one
33 hundred dollars for the first violation and one hundred fifty dollars for
34 a second or subsequent violation within eighteen months.

35 (c) If said commissioner finds, after a hearing, that any dealer or
36 distributor has sold, given or delivered cigarettes or tobacco products
37 to a [minor] person under twenty-one years of age other than [a minor]
38 such person who is delivering or accepting delivery in [his] such
39 person's capacity as an employee, or such dealer or distributor's
40 employee has sold, given or delivered cigarettes or tobacco products to
41 such [minor] person under twenty-one years of age, said commissioner
42 shall assess such dealer or distributor a civil penalty of two hundred
43 fifty dollars for the first violation and five hundred dollars for a second
44 violation within eighteen months. For a third violation within eighteen
45 months, such dealer or distributor shall be assessed a civil penalty of
46 five hundred dollars and any license held by such dealer or distributor

47 under this chapter shall be suspended for not less than thirty days.

48 (d) If said commissioner finds, after a hearing, that any owner of an
49 establishment in which a cigarette vending machine or restricted
50 cigarette vending machine is located has sold, given or delivered
51 cigarettes or tobacco products from any such machine to a [minor]
52 person under twenty-one years of age other than [a minor] such
53 person who is delivering or accepting delivery in [his] such person's
54 capacity as an employee, or has allowed cigarettes or tobacco products
55 to be sold, given or delivered to such [minor] person under twenty-one
56 years of age from any such machine, said commissioner shall assess
57 such dealer or distributor a civil penalty of two hundred fifty dollars
58 for the first violation and five hundred dollars for a second violation
59 within eighteen months. For a third violation within eighteen months,
60 such dealer or distributor shall be assessed a civil penalty of five
61 hundred dollars and any such machine shall be immediately removed
62 from such establishment and no such machine may be placed in such
63 establishment for a period of one year following such removal.

64 (e) Any person aggrieved by any action of the commissioner
65 pursuant to this section may take any appeal of such action as
66 provided in sections 12-311 and 12-312.

67 Sec. 503. Section 53-344 of the general statutes is repealed and the
68 following is substituted in lieu thereof (*Effective October 1, 2003*):

69 (a) As used in this section:

70 (1) "Cardholder" means any person who presents a driver's license
71 or an identity card to a seller or seller's agent or employee, to purchase
72 or receive tobacco from such seller or seller's agent or employee;

73 (2) "Identity card" means an identification card issued in accordance
74 with the provisions of section 1-1h;

75 (3) "Transaction scan" means the process by which a seller or seller's
76 agent or employee checks, by means of a transaction scan device, the

77 validity of a driver's license or an identity card; and

78 (4) "Transaction scan device" means any commercial device or
79 combination of devices used at a point of sale that is capable of
80 deciphering in an electronically readable format the information
81 encoded on the magnetic strip or bar code of a driver's license or an
82 identity card.

83 (b) Any person who sells, gives or delivers to any [minor under
84 eighteen] person under twenty-one years of age tobacco, unless the
85 [minor] person under twenty-one years of age is delivering or
86 accepting delivery in such person's capacity as an employee, in any
87 form shall be fined not more than two hundred dollars for the first
88 offense, not more than three hundred fifty dollars for a second offense
89 within an eighteen-month period and not more than five hundred
90 dollars for each subsequent offense within an eighteen-month period.

91 (c) Any person under [eighteen] twenty-one years of age who
92 purchases or misrepresents such person's age to purchase tobacco in
93 any form shall be fined not more than fifty dollars for the first offense
94 and not less than fifty dollars nor more than one hundred dollars for
95 each subsequent offense.

96 (d) (1) A seller or seller's agent or employee may perform a
97 transaction scan to check the validity of a driver's license or identity
98 card presented by a cardholder as a condition for selling, giving away
99 or otherwise distributing tobacco to the cardholder.

100 (2) If the information deciphered by the transaction scan performed
101 under subdivision (1) of this subsection fails to match the information
102 printed on the driver's license or identity card presented by the
103 cardholder, or if the transaction scan indicates that the information so
104 printed is false or fraudulent, neither the seller nor any seller's agent or
105 employee shall sell, give away or otherwise distribute any tobacco to
106 the cardholder.

107 (3) Subdivision (1) of this subsection does not preclude a seller or

108 seller's agent or employee from using a transaction scan device to
109 check the validity of a document other than a driver's license or an
110 identity card, if the document includes a bar code or magnetic strip
111 that may be scanned by the device, as a condition for selling, giving
112 away or otherwise distributing tobacco to the person presenting the
113 document.

114 (e) (1) No seller or seller's agent or employee shall electronically or
115 mechanically record or maintain any information derived from a
116 transaction scan, except the following: (A) The name and date of birth
117 of the person listed on the driver's license or identity card presented by
118 a cardholder; (B) the expiration date and identification number of the
119 driver's license or identity card presented by a cardholder.

120 (2) No seller or seller's agent or employee shall use a transaction
121 scan device for a purpose other than the purposes specified in
122 subsection (d) of this section or subsection (c) of section 30-86.

123 (3) No seller or seller's agent or employee shall sell or otherwise
124 disseminate the information derived from a transaction scan to any
125 third party, including, but not limited to, selling or otherwise
126 disseminating that information for any marketing, advertising or
127 promotional activities, but a seller or seller's agent or employee may
128 release that information pursuant to a court order.

129 (4) Nothing in subsection (d) of this section or this subsection
130 relieves a seller or seller's agent or employee of any responsibility to
131 comply with any other applicable state or federal laws or rules
132 governing the sale, giving away or other distribution of tobacco.

133 (5) Any person who violates this subsection shall be subject to a civil
134 penalty of not more than one thousand dollars.

135 (f) (1) In any prosecution of a seller or seller's agent or employee for
136 a violation of subsection (b) of this section, it shall be an affirmative
137 defense that all of the following occurred: (A) A cardholder attempting
138 to purchase or receive tobacco presented a driver's license or an

139 identity card; (B) a transaction scan of the driver's license or identity
140 card that the cardholder presented indicated that the license or card
141 was valid; and (C) the tobacco was sold, given away or otherwise
142 distributed to the cardholder in reasonable reliance upon the
143 identification presented and the completed transaction scan.

144 (2) In determining whether a seller or seller's agent or employee has
145 proven the affirmative defense provided by subdivision (1) of this
146 section, the trier of fact in such prosecution shall consider that
147 reasonable reliance upon the identification presented and the
148 completed transaction scan may require a seller or seller's agent or
149 employee to exercise reasonable diligence and that the use of a
150 transaction scan device does not excuse a seller or seller's agent or
151 employee from exercising such reasonable diligence to determine the
152 following: (A) Whether a person to whom the seller or seller's agent or
153 employee sells, gives away or otherwise distributes tobacco is
154 [eighteen] twenty-one years of age or older; and (B) whether the
155 description and picture appearing on the driver's license or identity
156 card presented by a cardholder is that of the cardholder."